

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHELLE CATINELLA,

Plaintiff,
v.

Case No. 4:19-cv-13793
District Judge Matthew F. Leitman
Magistrate Judge Anthony P. Patti

CITY OF WARREN and
BERNADETTE MOORE,

Defendants.

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**ORDER GRANTING IN PART DEFENDANTS' MOTION TO COMPEL
RULE 35 EXAMINATION OF PLAINTIFF CATINELLA (ECF NO. 26)**

Currently before the Court is Defendant's June 17, 2021 motion to compel Plaintiff's independent medical examination (IME) (ECF No. 26), as to which a response, a reply, and a statement of resolved and unresolved issues have been filed (ECF Nos. 29, 30, 31). Judge Leitman referred this motion to me for hearing and determination, and, on August 2, 2021, the Court held a video hearing at which attorneys Marc A. Deldin and Elizabeth P. Roberts appeared. (ECF Nos. 27, 28, 32.) After entertaining oral argument on the motion, the Court issued its ruling from the bench. For the reasons stated on the record, all of which are incorporated by reference as though fully restated herein, Defendants' June 17, 2021 motion (ECF No. 26) is **GRANTED IN PART**, as follows:

- Plaintiff shall appear for a psychiatric and neurological examination with Dr. Brian Kirschner, without being limited to the scope of Dr. Sheiner's examination (Plaintiff's expert), because Plaintiff's mental and physical health is in controversy and Defendants have shown good cause for their request. Fed. R. Civ. P. (a)(1), (2)(A).
- Defendants will reschedule the examination for a mutually convenient date and time, although it must occur on or before **September 9, 2021**.
- The parties shall submit a stipulation and proposed order to specify the date and time of the examination, which will occur at the address previously specified (*see* ECF No. 26-4, PageID.275). Fed. R. Civ. P. 35(a)(2)(B).
- The deadline for Dr. Kirschner to provide a report shall be included in the parties' forthcoming stipulation, which will also include revised dates for the completion of expert discovery, including expert depositions.

Finally, no costs are awarded, because the Court did not grant all of the relief originally sought in the motion and because "the motion was substantially justified or other circumstances make an award of expenses unjust." Fed. R. Civ. P. 37(a)(5)(B).

IT IS SO ORDERED.

Dated: August 2, 2021

Aug 2, 2021
Anthony P. Patti
U.S. MAGISTRATE JUDGE